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**PRELIMINARY DRAFT**  
**No. 3232**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2011 GENERAL ASSEMBLY**

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**DIGEST**

**Citations Affected:** IC 36-8-8-13.1.

**Synopsis:** PERF administrative matters. PERF proposal #10. Permits an administrative law judge, for cause shown, to order the waiver or extension of the 180-day limit in which the board of trustees of the public employees' retirement fund (PERF) is required to issue a final order after the date the PERF board receives a local board's initial disability determination or the PERF director initiates a review of a default disability award for a member of the 1977 police officers' and firefighters' pension and disability fund.

**Effective:** July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 36-8-8-13.1, AS AMENDED BY P.L.29-2006,  
2       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2011]: Sec. 13.1. (a) If:

4           (1) the local board has determined under this chapter that a  
5           covered impairment exists and the safety board has determined  
6           that there is no suitable and available work within the department,  
7           considering reasonable accommodation to the extent required by  
8           the Americans with Disabilities Act; or

9           (2) the fund member has filed an appeal under section 12.7(o) of  
10          this chapter;

11       the local board shall submit the local board's determinations and the  
12       safety board's determinations to the PERF board's director.

13       (b) Whenever a fund member is determined to have an impairment  
14       under section 12.7(i) of this chapter, the PERF board's director shall  
15       initiate a review of the default award not later than sixty (60) days after  
16       the director learns of the default award.

17       (c) After the PERF board's director receives the determinations  
18       under subsection (a) or initiates a review under subsection (b), the fund  
19       member must submit to an examination by a medical authority selected  
20       by the PERF board. The authority shall determine if there is a covered  
21       impairment. With respect to a fund member who is covered by sections  
22       12.5 and 13.5 of this chapter, the authority shall determine the degree  
23       of impairment. The PERF board shall adopt rules under IC 4-22-2 to  
24       establish impairment standards, such as the impairment standards  
25       contained in the United States Department of Veterans Affairs  
26       Schedule for Rating Disabilities. The report of the examination shall be  
27       submitted to the PERF board's director. If a fund member refuses to  
28       submit to an examination, the authority may find that no impairment  
29       exists.

30       (d) The PERF board's director shall review the medical authority's  
31       report and the local board's determinations and issue an initial



determination within sixty (60) days after receipt of the local board's determinations. The PERF board's director shall notify the local board, the safety board, and the fund member of the initial determination. The following provisions apply if the PERF board's director does not issue an initial determination within sixty (60) days and if the delay is not attributable to the fund member or the safety board:

(1) In the case of a review initiated under subsection (a)(1):

(A) the determinations of the local board and the chief of the police or fire department are considered to be the initial determination; and

(B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2), the statements made by the fund member under section 12.7(o) of this chapter are considered to be the initial determination.

(3) In the case of a review initiated under subsection (b), the initial determination is the impairment determined under section 12.7(i) of this chapter.

(e) The fund member, the safety board, or the local board may object in writing to the director's initial determination within fifteen (15) days after the determination is issued. If no written objection is filed, the initial determination becomes the final order of the PERF board. If a timely written objection is filed, the PERF board shall issue the final order after a hearing. **Unless an administrative law judge orders a waiver or an extension of the period for cause shown**, the final order shall be issued not later than one hundred eighty (180) days after the date of receipt of the local board's determination or the date the PERF board's director initiates a review under subsection (b). The following provisions apply if a final order is not issued within ~~one hundred eighty (180) days~~ **the time limit described in this subsection** and if the delay is not attributable to the fund member or the chief of the police or fire department:

(1) In the case of a review initiated under subsection (a)(1):

(A) the determinations of the local board and the chief of the police or fire department are considered to be the final order; and

(B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2), the statements made by the fund member under section 12.7(o) of this chapter are considered to be the final order.

(3) In the case of a review initiated under subsection (b), the impairment determined under section 12.7(i) of this chapter is considered to be the final order.

(f) If the PERF board approves the director's initial determination, then the PERF board shall issue a final order adopting the initial



1 determination. The local board and the chief of the police or fire  
2 department shall comply with the initial determination. If the PERF  
3 board does not approve the initial determination, the PERF board may  
4 receive additional evidence on the matter before issuing a final order.

5 (g) Appeals of the PERF board's final order may be made under  
6 IC 4-21.5.

7 (h) The transcripts, records, reports, and other materials compiled  
8 under this section must be retained in accordance with the procedures  
9 specified in section 12.7(p) of this chapter.

